

808 KAR 9:050. Required forms, procedures, and fees for applicants and licensees.

RELATES TO: KRS 286.9-010, 286.9-020, 286.9-030, 286.9-040, 286.9-050, 286.9-060, 286.9-070, 286.9-071, 286.9-073, 286.9-080, 286.9-104

STATUTORY AUTHORITY: KRS 286.9-050, 286.9-060, 286.9-070, 286.9-090(1), 286.9-104

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-090(1) authorizes the commissioner to adopt reasonable administrative regulations for the enforcement of KRS Chapter 286.9. KRS 286.9-050 and 286.9-060 authorize the commissioner to prescribe the form of and the filing procedures for an application for a license under KRS Chapter 286.9 and the information and documents that must be submitted to the commissioner with an application for a license. KRS 286.9-070 requires licensees to file a written request for a change of control and to pay the cost incurred by the commissioner in investigating the change of control request. KRS 286.9-104 requires the commissioner to promulgate an annual report form and to prescribe certain information that must be submitted. This administrative regulation establishes the required forms, information, documents, fees, and filing procedures for licensees and applicants proceeding pursuant to these statutes.

Section 1. Definitions. (1) "Applicant" is defined by KRS 286.9-010(2).

(2) "Check casher license" means a license issued pursuant to KRS Chapter 286.9 to engage in a combined business, which includes both of the following:

- (a) The business of cashing checks; and
- (b) The business of accepting deferred deposit transactions.

(3) "Commissioner" is defined by KRS 286.9-010(16).

(4) "Licensee" is defined by KRS 286.9-010(18).

(5) "Limited check casher license" means a license issued pursuant to KRS Chapter 286.9 to engage in the business of cashing checks.

(6) "Person" is defined by KRS 286.9-010(22).

Section 2. Pursuant to the moratorium on the deferred deposit service business license in KRS 286.9-071, a license issued prior to July 2, 2009, shall be a check casher license.

Section 3. Application for Limited Check Casher License. A person applying for a limited check casher license shall complete and submit the following:

(1) Form LCC-1, Application for Limited Check Casher License with all required attachments;

(2) The nonrefundable investigation fee established in KRS 286.9-060(1);

(3) If the applicant has a license, registration, or claim of exemption related to the financial services industry in any other state, a Form COMB-1, State License Confirmation Form for Check Casher License or Limited Check Casher License;

(4) An audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated as of the previous year end. A financial statement shall include a balance sheet, income statement, a statement of cash flows, and all notes. If the applicant is a start-up company, an initial statement of condition and a pro-forma income statement shall be submitted instead of the income statement and statement of cash flows;

(5) Evidence that the applicant has complied or will comply with all workers' compensation and unemployment compensation laws of Kentucky; and

(6) One (1) of the following, which shall be deposited with and made payable to the com-

missioner:

- (a) An irrevocable letter of credit in an amount required by KRS 286.9-040(1)(a);
- (b) An original corporate surety bond furnished by a surety company authorized to do business in Kentucky. The name of the principal insured on the bond shall match exactly the full legal name of the applicant. The bond shall be submitted on Form COMB-2, Surety Bond for Check Cashier License or Limited Check Cashier License, in an amount required by KRS 286.9-040(1)(b);
- (c) Evidence that the applicant has established an account in a federally insured financial institution in Kentucky and has deposited money of the United States in an amount required by KRS 286.9-040(1)(c), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashier License or Limited Check Cashier License; or
- (d) A savings certificate of a federally insured financial institution in Kentucky established by the applicant that is not available for withdrawal except by direct order of the commissioner in an amount required by KRS 286.9-040(1)(d), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashier License or Limited Check Cashier License.

Section 4. Renewal Applications. A licensee applying for renewal of a check cashier license or limited check cashier license pursuant to KRS 286.9-080(1) shall complete and submit the following on or before June 20 of each year:

- (1) Form COMB-4, Renewal Application for Check Cashier License or Limited Check Cashier License with all required attachments; and
- (2) The nonrefundable license fee established in KRS 286.9-080(1).

Section 5. Reinstatement Applications. A licensee applying for reinstatement of a check cashier license or limited check cashier license pursuant to KRS 286.9-080(2) shall complete and submit the following prior to August 1 of the year that the renewal application was due:

- (1) Form COMB-4, Renewal Application for Check Cashier License or Limited Check Cashier License with all required attachments;
- (2) The nonrefundable license fee established in KRS 286.9-080(1); and
- (3) The nonrefundable late fee and reinstatement fee established in KRS 286.9-080(2).

Section 6. Annual Report. A licensee filing an annual report pursuant to KRS 286.9-104 shall complete and submit the following on or before March 1 of each year:

- (1) Form COMB-5, KRS 286.9-104 Annual Report to the Department of Financial Institutions; and
- (2) A financial statement for the previous calendar year prepared in accordance with generally accepted accounting principles. A financial statement shall include a balance sheet, income statement, and all notes.

Section 7. Interpretation of KRS 286.9-030(3). A person shall be deemed principally engaged in the business of cashing checks and not principally engaged in the retail sale of goods or services at any particular location if the location's gross annual check cashing receipts exceed more than fifty (50) percent of the location's annual revenue.

Section 8. Change of Control. A licensee making a request for a change of control pursuant to KRS 286.9-070(5) shall complete and submit the following:

- (1) Form COMB-6, Change of Control Request for Check Cashier License or Limited Check Cashier License with all required attachments;
- (2) If the person obtaining control of the licensee is not a licensee, a nonrefundable investi-

gation fee of \$500;

(3) If the person obtaining control of the licensee has a license, registration, or claim of exemption related to the financial services industry in any other state, a Form COMB-1, State License Confirmation Form for Check Cashier License or Limited Check Cashier License for the person obtaining control of the licensee;

(4) An audited financial statement for the person obtaining control of the licensee prepared by a certified public accountant in accordance with generally accepted accounting principles as of the previous year end. A financial statement shall include a balance sheet, income statement, a statement of cash flows, and all notes. If the person obtaining control of the licensee is a start-up company or new entity, an initial statement of condition and a pro-forma income statement shall be submitted instead of the income statement and statement of cash flows;

(5) Evidence that the person obtaining control of the licensee has complied or will comply with all workers' compensation and unemployment compensation laws of Kentucky; and

(6) One (1) of the following, which shall be deposited with and made payable to the commissioner:

(a) An irrevocable letter of credit in an amount required by KRS 286.9-040(1)(a);

(b) An original corporate surety bond furnished by a surety company authorized to do business in Kentucky. The name of the principal insured on the bond shall match exactly the full legal name of the person obtaining control of the licensee. The bond shall be submitted on Form COMB-2, Surety Bond for Check Cashier License or Limited Check Cashier License, in an amount required by KRS 286.9-040(1)(b);

(c) Evidence that the person obtaining control of the licensee has established an account in a federally insured financial institution in Kentucky and has deposited money of the United States in an amount required by KRS 286.9-040(1)(c), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashier License or Limited Check Cashier License; or

(d) A savings certificate of a federally insured financial institution in Kentucky established by the person obtaining control of the licensee that is not available for withdrawal except by direct order of the commissioner in an amount required by KRS 286.9-040(1)(d), with an escrow agreement submitted on Form COMB-3, Escrow Agreement for Check Cashier License or Limited Check Cashier License.

Section 9. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form LCC-1, "Application for Limited Check Cashier License", April 2016;

(b) Form COMB-1, "State License Confirmation Form for Check Cashier License or Limited Check Cashier License", April 2016;

(c) Form COMB-2, "Surety Bond for Check Cashier License or Limited Check Cashier License", April 2016;

(d) FORM COMB-3, "Escrow Agreement for Check Cashier License or Limited Check Cashier License", April 2016;

(e) Form COMB-4, "Renewal Application for Check Cashier License or Limited Check Cashier License", April 2016;

(f) Form COMB-5, "KRS 286.9-104 Annual Report to the Department of Financial Institutions", April 2016; and

(g) Form COMB-6, "Change of Control Request for Check Cashier License or Limited Check Cashier License", April 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Financial Institutions, 1025 Capital Center Drive, Suite 200,

Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>. (42 Ky.R. 2852; 43 Ky.R. 25; eff. 8-5-2016.)